



Missouri Department of Natural Resources

MINUTES

MISSOURI SOIL AND WATER DISTRICTS COMMISSION

DNR CONFERENCE CENTER

JEFFERSON CITY, MISSOURI

October 25, 2005

COMMISSION MEMBERS PRESENT: Kathryn Braden, Elizabeth Brown, Richard Fordyce, Leon Kreisler

EX-OFFICIO MEMBERS: JOHN HOSKINS, DEPT. OF CONSERVATION: Brad McCord; **DOYLE CHILDERS, DEPT OF NATURAL RESOURCES:** Mike Wells

ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM: Sarah Fast; **NRCS:** Dwaine Gelnar; **MASWCD:** Steve Oetting

STAFF MEMBERS PRESENT: Davin Althoff, Gary Baclesse, Milt Barr, Jim Boschert, April Brandt, Chris Evans, Gina Luebbering, Dean Martin, Theresa Mueller, Marcy Oerly, James Plassmeyer, Josh Poynor, Jeremy Redden, Ron Redden, Kevin Scherr, Judy Stinson, Ken Struempf, Lindsay Tempinson, Chris Wieberg, Bill Wilson

OTHERS PRESENT: LEGISLATORS: Steve Collier representing Representative Michael McGhee, Heidi Osner representing Representative Bill Stouffer, **STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:** Tim Duggan, **OTHERS:** FARM BUREAU: Kelly Smith; **MASWCD:** Peggy Lemons; **UNIVERSITY OF MISSOURI:** Nadia Navarrete-Tindall; **INDIVIDUALS:** Marvin Havener, Steve Mahfood, Bill Millard, Brian Spease,

A. CALL TO ORDER

Chairman Elizabeth Brown called the meeting to order at the DNR Conference Center in Jefferson City, Missouri, in the Bennett Spring/Roaring River Room at 8:16 a.m.

B. MINUTES OF THE LAST MEETING

Kathryn Braden made a motion to approve the minutes of the September 8, 2005, commission meeting as mailed. Richard Fordyce seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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C. CLOSED SESSION

Kathryn Braden made a motion to go into closed session pursuant to Section 610.021, RSMo 2000 (as amended), to discuss legal, confidential, or privileged matters under §610.021(1), RSMo; personnel actions under §610.021(3), RSMo; personnel records or applications under §610.021(13), RSMo; audit issues under §610.021(17), RSMo; or records which are otherwise protected from disclosure by law under §610.021(14).

Richard Fordyce seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

Sarah Fast stated that Kathryn Braden asked about the closed session minutes that the commission had received. Ms. Fast asked if the commission could read them sometime during the break and if the commission wanted to approve them they could do that during the meeting. If not, it would have to be done at the next meeting.

Elizabeth Brown introduced the commission's new representative from the Attorney General's Office, Tim Duggan. She also welcomed Mike Wells.

D. PLANNING

1. Soil Science

Dean Martin presented an update on Soil Science. He stated that the 1994 Plan for the Future called for the Department of Natural Resources (DNR) soil scientists to help complete the initial inventory of Missouri's soils. The other part of the plan was to evaluate DNR soil scientists' role in providing additional soil technical services.

Mr. Martin stated that the initial soil inventory was completed. The commission decided that their role would be to assist in updating the soil survey based on Major Land Resource Area (MLRA) and provide assistance to districts, landowners, and others. Half of their time would be spent keeping the data up to date and the other half in providing soil science assistance. Examples of soil science assistance are identifying soils and landscapes subject to erosion, transport of pollutants, and other problems; proposing soil science-based solutions to watershed problems; and reviewing Agricultural Nonpoint Source (AgNPS) Special Area Land Treatment (SALT) and other watershed successes using science-based criteria.

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Mr. Martin stated that they were at the threshold of beginning the Phase two MLRA update work. Assignments have not yet been made to DNR soil scientists. Phase two is to maintain and update maps and soil properties data by conducting needed data collection activities, and to upgrade the entire state database to a common high standard.

The commission recently completed a new 2005 Plan for the Future, which identifies priorities and implementation strategies for the commission over the next ten years. With the new "Plan for the Future" and with new priorities, implementation strategies, reorganization, and the new Phase two update projects coming on line, they are evaluating their previous 50:50 assumption. For instance, information and education was a very important aspect of the new Plan for the Future and the soil scientists are involved in soil judging contests, Envirothons, class room instruction, and seminars. The thought was that maybe this should be tracked separately and the numbers should be 40:40:20 or some other way. Guidance from the commission would be helpful in this regard.

Their plan is to maintain a general ration of 50 percent for MLRA update work and 50 percent for soils technical assistance (as best as they can). They will revise their time accounting to better capture the work they do in regard to priorities and strategies outlined in the new Plan for the Future. They will track their time and provide periodic reports to interested parties. They will enter into agreements with other branches of the department regarding the limited use of soil scientists' time.

Mr. Martin updated the commission on the staffing plan that included three Unit Chiefs (Soil Scientist 4s), and 17 other Soil Scientist (1s, 2s, and 3s), for a total of 20 - which is down from the 30 in 1994. He stated that there are three in each office except for Springfield and Columbia, and they each have four. Mr. Martin stated that they have a strong cooperative partnership with the University of Missouri, NRCS, districts, and others.

2. Research - Cool Season Grasses Proposal

Mr. Martin introduced Nadia Navarrete-Tindall from the University of Missouri, who had been working on native cool season grasses. Sarah Fast stated this was a research project the commission had funded.

Dr. Tindall proceeded to discuss the importance of cool season grasses in conservation. She stated that cluster fescue was a native cool season grass with potential uses for soil conservation, wildlife, and forestry practices. She stated

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there are two native fescues in Missouri, and one is the *festuca paradoxa* (cluster fescue). This one is found in prairies, forest openings, and glades. It is very similar to tall fescue, and that was one of the reasons why she wanted to learn more about this grass. She stated there was a chance to use this grass as an alternative to tall fescue. She also stated the seeds were very similar to tall fescue seeds. This grass is found in half of the United States and very scattered in Missouri. While doing her research she found other cool season grasses such as, river oats, junegrass, and manna grass could be mixed with cluster fescue. The reason for including these grasses in projects is because they have the potential to provide high quality forage. The main goal for the research was to study general characteristics of cluster fescue. During her studies she found that cluster fescue was easy to grow. Recently she was able to establish plots of the grass at the Bradford Research and Extension Center. She stated that a lot of people had visited these plots, which is the best way to promote the grass. What she had learned is that the grass might go dormant when it is dry. She stated that it can survive in harsh conditions and if it dies off at the end of three years there is natural regeneration.

She stated that the proposed new studies were to test additional seed stratification and scarification methods to improve seed germination of cluster fescue, test periodic mowing during growing season to maintain vegetative growth on cluster fescue, compare seed production of four cluster fescue and seed production plots, and finally, examine the presence of endophyte on seed and seedlings of cluster fescue and arbuscular mycorrhizae fungi in cluster fescue.

Leon Kreisler asked when the initial proposal was made and how much the funding was. Dr. Tindall answered that it was \$102,000 for three years, and it started in 2002 and ended in July 2005. Mr. Kreisler stated he did not see the connection of the study versus improvement of eliminating soil erosion and water quality. Sarah Fast stated that at the time, the commission looked at the project as very basic research. She stated that there are two kinds of research, applied and basic. This was looked at as very basic research in terms of trying to find new seed sources that could be used for long-term soil conservation. Dr. Tindall stated that the seed was not available, so that was why they had to do the research. Mr. Kreisler asked if Dr. Tindall had a final report of the first proposal. Dr. Tindall answered that she did, and it was the summary that was provided to the commission in their packet. Ms. Fast stated the research was extended by a no cost time extension. Ms. Fast stated the report was not due until December, but the research was basically complete. She stated the question for the commission was to see if they wanted to put more money toward additional research. Dr. Tindall stated that more studies needed to be done to find out if the grass could be

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used as a forage grass. She felt the research was needed to increase the awareness of the uses of this grass for farms. Kathryn Braden asked what Dr. Tindall had found as the benefit of cluster fescue over other cool season grasses. Dr. Tindall answered that by mixing the different cool season grasses you have a stand if the cluster fescue would die out. She also stated that with constant mowing forage would be produced like any other grass. Brad McCord, from Missouri Department of Conservation, stated that this research was of value in finding out the benefits of this grass. Richard Fordyce asked if cluster fescue would spread. Dr. Tindall said it produces seed, but does not spread. When asked if cattle found this grass to be palatable, Dr. Tindall answered that they had not given it to livestock yet, but that would be the next step in the research. When asked if the requested funding was for one more year, Dr. Tindall answered that it was for two years. Ms. Brown asked if Dr. Tindall was asking for \$45,000. Dr. Tindall answered yes, for the two years.

Dean Martin stated they were not able to enter into a contract with the University of Missouri at the time. He stated there was an issue in regard to the administrative charges, so the overall contract was being worked on. Mr. Martin stated this was not an instant payoff, it was a development of tools for ten to 15 years out. Mr. Fordyce asked Dr. Tindall if the commission did not fund the full amount if she would be able to get the funding from some where else. Dr. Tindall answered she would do her best.

E. REVIEW/EVALUATION

1. Land Assistance Section

a. Special Area Land Treatment (SALT)

1. Putnam SWCD - Management Strategy Blackbird Creek

April Brandt presented an update on the Management Strategy for Putnam SWCD's Blackbird Creek AgNPS SALT Project.

The project was placed in Management Strategy when the percent of progress was below the commission's minimum of 17 percent. The project was at 16.19 percent when it was placed in Management Strategy. At the August 31, 2005 Putnam SWCD Board meeting, staff discussed with the board concerns and suggestion for getting the project back on track.

Ms. Brandt reminded the commission that at their last meeting Putnam was in the process of revising their Semi-Annual Progress Report. The report was received in the office on October 3, 2005,

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with progress of 20.50 percent for the project for the sixth reporting period. Since the report showed progress above the commission's minimum of 17 percent, the project was no longer in Management Strategy. The board was sent a letter on October 12, 2005, informing them that the project was no longer in Management Strategy.

b. Cost-Share

1. Monthly Cost-share Usage and Fund Status Report

Ron Redden reported that in FY05 the districts obligated 41 percent or \$9,700,000 of the \$24,000,000 that had been allocated. He stated that this year the districts had obligated 40 percent or \$9,300,000 of the \$23,500,000 that they were allocated.

In FY05, for the same time period, the districts claimed 6 percent or \$1,500,000 of the funds allocated and as September 30, 2005, the districts had claimed 5 percent or \$1,300,000 of the funds allocated for FY06.

Mr. Redden stated the districts had been allocated approximately \$23,500,000 for use in FY06. It is very unlikely that the entire \$23,500,000 will be claimed and this is why the projected claimed is only \$20,00,000. The projection was based on amounts claimed in previous years.

As of September 30th, there had been \$850,000 processed in claims, which was \$150,000 less than projected.

As of October 20th, the program office had received \$1,600,000 in claims, this amount was less than the \$2,000,000 that was received last year at this time.

2. Allocation of Additional FY06 Cost-Share Funds

Ron Redden presented a request for additional FY06 Cost-Share funds. At the August 4, 2005 commission meeting, the commission offered an additional \$68,100 to the 60 districts that claimed 80 percent or more of their FY05 allocation. The total amount available was \$4,086,000, of that amount the districts

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accepted \$3,576,731. Of the 60 districts that requested funding, 32 indicated they could use an additional \$1,600,000.

The 32 districts were asked if they could use even more additional funds and how much. Mr. Redden stated this letter was similar to the one sent last year and the purpose of asking the districts to not just indicate "yes" that they wanted even more funds was to turn around any funds not originally accepted in a more timely manner. The commission was reminded that they had extended additional funds to only those districts that claimed at least 80 percent of their total allocation the previous year. Mr. Redden pointed out that there were five districts requesting additional funds even though they did not claim 80 percent last year. Those districts claimed between 59 and 74 percent.

Mr. Redden proceeded to discuss an item indirectly related to additional funds. He stated that given the amount of rains that were received since the August meeting, the drought issue may not be completely over but the pastures are looking a lot better. Mr. Redden pointed out that Missouri had been removed from any drought classification. Counties in the extreme northeast corner of the state and some counties along the most western 2/3 of the Arkansas border were classified as being abnormally dry on the last posting of the US Drought Monitor. He stated some reseedings may be requested next spring, but the districts' current allocations would likely handle the bulk of those needs. Mr. Redden stated that even if some districts did request additional funds next spring, based on the temporary drought policies the commission approved in September, by allocating an additional \$500,000 now, the commission would not be at a significant risk of claiming in excess of the FY06 appropriation.

Elizabeth Brown stated that it would not be fair to provide funding for the five unless the others were notified that they could possibly be funded also. Mr. Redden agreed that he did not think other districts claiming less than 80 percent would think it was fair and they were not being considered with these five just because they did not ask when they knew the current commission policy did not include them. Leon Kreisler asked if the three or four that just answered yes had been contacted. Mr. Redden answered he had not contacted them to see how much additional funds they wanted.

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He stated that last year there was a similar situation and the commission limited funds to those that indicated a dollar amount. Richard Fordyce asked if this was the first year that this approach was tried. Mr. Redden answered this was the second year. He stated the districts were sent a similar letter last year asking them to let the program office know how much of the \$68,100 they wanted and if they wanted additional funds, they needed to indicate the amount.

Leon Kreisler made a motion to offer an additional \$500,000 to the 32 districts that claimed 80 percent and indicated they still wanted additional funds after receiving \$68,100. Richard Fordyce seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

2. District Assistance Section

a. Information/Education Grant

Jim Plassmeyer presented a review of the information/education program. This program began in 2004 as a competitive program between the districts to fund new and innovative projects. The initial \$250,000 funding came from a redirect of the loan interest share program. A request for proposals was sent to the districts asking them to submit a proposal for review and ranking. The proposals are reviewed and ranked by the information/education review committee and then presented to the commission for approval.

In May, the commission approved the committee's recommendation and allocated \$195,356. Of that amount, \$54,644 remained to be re-allocated. At that point, the commission decided to send out another call for proposals. The stipulations were that the proposals had to be for the current fiscal year only and there could not be any salary.

On October 13, 2005, the review committee met to review and rank the proposals. Mr. Plassmeyer reviewed a handout that lists all proposals and the funds requested and funds recommended by the committee. Of the eight proposals received, the committee recommended that five receive at least a portion of their requested funds. Some of the reasons the committee did not recommend the full amount was because the proposal may have included an item that exceeded a commission limit or the

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committee did not believe all of the budget items were needed. The committee recommended that the commission approve five proposals that total \$12,551.78. The three that were not recommended were items that the committee did not feel were appropriate for the funding. Some were items that had been denied in the past.

Kathryn Braden made a motion to approve the committee's recommendation. Leon Kreisler seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

Next, Mr. Plassmeyer asked the commission what they wanted to do with the remaining information/education funds. Based on today's approval, there was still \$42,091.79 not obligated. In FY05 a total of \$235,055 or 94 percent was obligated out of the \$250,000 through two calls. Of the obligated, districts spent \$171,605 or 69 percent of the total budget. With the approval of the above proposals, the total was \$207,908.21 or 83 percent obligated.

Mr. Plassmeyer reviewed various options with the commission. The first was that the commission could send a request for a third call and have the same limits as before. In the second option commission might also wish to consider to adding the remaining information/education funds to the matching grant funds and release them later in the year when the commission has the mid-year review of the matching grant program. The commission could do this because both funds are part of the district assistance grant in the budget and can be managed together. Mr. Plassmeyer stated staff saw more funds being utilized through this option than another call.

Richard Fordyce made a motion to release the remaining information/education funds with the matching grant funds during the mid-year review of the matching grant program. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

F. REQUESTS

1. Land Assistance Section

a. Cost-Share

1. **Shannon SWCD - Request To Use The DFR-4 (Forest Plantation Practice) On Acreage Already Established In A Woodland**

Ron Redden presented a request from Shannon SWCD to use the DFR-4 on acreage already established in woodland. In the letter from the board, they indicated they understood the purpose of the DFR-4 was to convert land to woodland but they wanted to use this practice to seed a nine acre area with pine that had been commercially harvested in accordance with the landowner's forestry management plan.

Commission policy states, "that the applicability of this practice is to convert land to woodland. In cases where the slope is greater than 10 percent or for riparian areas, the commission's rule provides an exception to the soil loss requirement to establish the woodland."

According to the district, the landowner had approximately a nine-acre area where the oaks were either of poor quality or showed signs of decline and suffered Red Oak Borer damage. It was recommended in 1996 to harvest the mature timber, have the poorer quality trees removed, and have the area replanted with pine. Since this was done, the landowner wants to seed the area with pine.

It was noted the landowner had been working with Missouri Department of Conservation (MDC) on the project, but MDC was unable to provide funding.

Mr. Redden pointed out that the commission has expressed the purpose of the practice was not to replace undesirable species with more desirable ones, but to convert land to woodland. Secondly, there is the possibility of setting a precedent for using the practice for cost-share assistance after an area has been harvested.

The commission's rule does have a variance provision whereby a board or landowner can request an individual variance of a rule or policy if it can be shown that by complying with the rule or policy

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an arbitrary or unreasonable impact will be placed on the landowner. In accordance with the variance rule, the board and/or the landowner would be provided an opportunity to present reasons the variance should be granted and show the inequities if the variance was not granted to this particular landowner.

In response to a question, Mr. Redden stated that if the board's request was approved, staff would send a letter to the board explaining to them what the commission's variance rule required. If current policy was maintained, staff would also send a letter to the board indicating the commission denied their request. Brad McCord asked if the current policy prevents forestland from being harvested and then apply for cost-share for reseeded. Mr. Redden answered yes. In response to a question, Mr. Redden stated that commission policy in the past has been to convert land to woodland, primarily pasture land or crop fields along a riparian area. Kathryn Braden asked if there was erosion where the trees had been harvested. Mr. Redden answered that he did not know but if the slope was greater than 10 percent there would not have to be erosion occurring for the practice to be eligible. Sarah Fast stated that the landowner had followed a MDC harvest plan, so you would assume that it was done without excessive erosion.

Kathryn Braden made a motion to approve the board's request provided a variance is requested and granted by the commission and have them provide more information, even pictures of the area. Leon Kreisler seconded the motion but stated he had mixed emotions. A poll vote was taken. Kathryn Braden and Leon Kreisler voted in favor of the motion and Richard Fordyce and Elizabeth Brown voted against the motion. Failing to receive a quorum of favorable votes, the motion did not carry and current policy remained in force.

2. **District Assistance Section**
 - a. **Supervisor Appointments**
 1. **Johnson SWCD**

Chris Wieberg presented a request from the Johnson Soil and Water Conservation District to appoint Sue Stropes to fill the unexpired term of Steve Weaver.

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Richard Fordyce made a motion to approve the board's request. Kathryn Braden seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

2. Dent SWCD

Chris Wieberg presented a request from the Dent Soil and Water Conservation District to appoint Tom McDaniel to fill the unexpired term of Suzie Wilson.

Leon Kreisler made a motion to approve the board's request. Richard Fordyce seconded the motion. When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

b. Livingston SWCD – Second Budget Revision

Jim Boschert presented a request from Livingston SWCD to revise their budget for last fiscal year. In a letter from the district they requested to move \$3,910 from the administrative expenses grant to the technical services grant.

Mr. Boschert stated they purchased a harrow in June from the administrative expense grant. On August 12th, the program office reviewed this and the district was informed that this expense would have to be moved from the administrative expenses grant to local funds. Mr. Boschert noted that machinery purchases have not been allowed from the administrative expenses grant in the past.

In a letter dated September 19, 2005, the district again requested that they be allowed to move \$3,910 from the administrative expenses grant to the technical service grant.

Current policy allows districts to revise their budget once during the fiscal year, but a second revision has to go to the commission for their decision. In the past, the commission has approved revision submitted after the end of the fiscal year.

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Kathryn Braden made a motion to approve the request. Richard Fordyce seconded the motion.

Elizabeth Brown asked if the commission had denied the purchase of the equipment. Mr. Boschert answered that the equipment purchase was denied. He stated the district was told they needed to move the expense to local funds, so the equipment expense would not be out of state funds. Now the district has \$3,910 in state funds from last fiscal year that they want to spend. When asked what would happen if it were denied, Mr. Boschert answered the \$3,910 would become part of their present allocation.

When asked by the chair, Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

G. REPORTS

1. NRCS

Dwaine Gelnar stated they were in the middle of their sign ups for EQIP, WHIP, and CSP for a couple of watersheds in the Springfield area, and the sign ups would run until the middle of December.

He stated on Friday, November 4th, in Springfield there would be a Farm Bill forum with Secretary Mike Johanns and it would be at the Ozark Empire Fairgrounds. Mr. Gelnar informed the commission that they were invited to attend. He stated all the agency heads would be there, such as the Farm Service Agency, Roger Hansen, others, and the Governor might be present.

He stated on November 7th, they would be having a state technical committee meeting to summarize what was done in FY05, and would be held in the Columbia State Office.

Mike Wells asked if the Farm Bill was something that the commission should take a position on as far as support. Mr. Gelnar stated there had been talks between the Senate reconciliation regarding the cuts, and the three programs that are being targeted are EQIP, CRP, and CSP. The cuts they are proposing for EQIP are not as severe. With CSP being a new program it is on the chopping block, and he did not know how much they would cut from it. With CRP they are looking at reducing the acreage on it. Mr. Gelnar stated that cuts in their operating budget for Missouri could range from \$3,000,000 to \$5,000,000. The

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financial assistance cuts for farmers could be more severe. He stated they would welcome any comments concerning these programs. Mr. Wells asked if the commission had been invited to the November 4th meeting to speak. Mr. Gelnar stated that anyone could attend and present. Kathryn Braden stated that she would be attending that meeting. Steve Oetting stated the first call in session was in Nashville and on RFD TV, and they took calls from around the states and had a variety of local people representing various commodity organizations. Ms. Braden stated that if any of the commissioners had a suggestion of something they would want her to say she would be glad to. Mr. Wells asked if the commission shouldn't have a statement that represents the commission. Ms. Brown answered that would be very appropriate. Ms. Brown asked Mr. Wells if he was going to be there, and he stated this was the first he had heard of it. Ms. Fast stated if the commission wanted to go on record as a body supporting the current funding level, staff could put together speaking points. The commission was reminded there was a two-minute time limit. Ms. Brown asked Ms. Braden since she was going to be there that perhaps she could express the commission's desire for funding to remain the same. Ms. Fast stated staff could get some speaking points together that Ms. Braden could put into her own words. Ms. Braden stated that would be fine. Richard Fordyce asked if this was going to be the only listening post in Missouri. Mr. Gelnar answered yes as far as he knew. Brad McCord stated that ALOT was going to have a December 6th, 7th, and 8th conference in place of the Governor's Agriculture Conference in Columbia and the Secretary of Agriculture was invited and this was another listening session.

2. MASWCD

Steve Oetting stated they were looking forward to another successful training conference at the end of November. From the NACD standpoint the next major meeting would be in Houston, Texas. He stated that Peggy Lemons, Fred Feldmann, and himself would be representing Missouri there.

3. Department of Conservation

Brad McCord stated Conservation would be happy to help at the training conference or wherever possible with assistance, moderators, or speakers.

4. Staff

Ron Redden stated that a Lewis County landowner had expressed his concern that after completing his practice, he would only receive 75 percent of the estimated costs and not 75 percent of the actual cost.

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Commission policy limits cost-share to 75 percent of the estimated cost or actual cost, whichever is less. In the letter to the landowner he was provided the proper procedures for requesting a variance to commission policy and asked to show why complying with the policy would be arbitrary or unreasonable.

Next, Ron Redden stated that from an earlier commission meeting the Ray SWCD referred a landowner to the commission to repay cost-share funds because the landowner was out of maintenance requirements on a DWC-1 structure. Per the commission's request, a letter was sent to the landowner informing him of the timeframe in which to get the practice back to specifications or it would be referred to the Attorney General's Office. Mr. Redden informed the commission that the practice had been brought back into compliance.

Jim Boschert presented a letter from the Gasconade SWCD requesting an increase of \$10,000 in their district assistance allocation for FY07. The letter stated that they were currently receiving \$44,000 in district assistance and they have taken advantage of the matching grant program and the information/education grants. Their current expenses totaled \$54,682 for personnel and \$19,356 for administrative expenses. Mr. Boschert reported that an expansion for the district employee benefit grant was being worked on for the next year, and the amount was \$258,241. Mr. Boschert presented a draft letter for the commission to consider that indicated their letter was presented to the commission and the budget for next year includes the increase for the district employee benefit grant. The letter also informed the district that the commission would review the request in the spring when allocations for next year are discussed.

Kathryn Braden stated that two years ago it was presented to the commission that a short-term fix was needed for the administrative costs and there was also a need for a long term fix for the administrative funds. At that point and time, what had been the employee benefit committee met and came up with the \$44,000 per district for administrative funds. She stated she did not think the long-term fix was ever looked into.

Bill Wilson reminded the commission that they had been mailed information on the training conference. The conference is scheduled for November 28th – 30th at Tan-Tar-A at Osage Beach. The commission was provided with another invitation letter, along with the registration form. Mr. Wilson also included the agenda for the conference and workshops. Mr. Wilson proceeded to cover the

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schedule of the conference. The theme for the conference is *Posturing for Progress*. Elizabeth Brown asked if there was any way that she could introduce the other members of the commission during the meeting. Mr. Wilson answered that staff would work that in during the Opening Session of the training conference.

H. FOLLOW-UP

1. Lafayette SWCD - A Tabled Request For The Commission To Establish A Fund To Assist Failed Structures

Ron Redden presented a follow up from the commission's September 8, 2005, meeting. At the September 8th meeting the commission considered a request from the Lafayette SWCD to establish funding to assist landowners when types of situations occur similar to the DWC-1 completed on the Spease property.

On the Spease property the slope failure developed immediately above a structure completed in December 2003, and moved up and around one side of the structure, and is now complicated with the construction of a new house above the slope failure.

Mr. Redden covered some of the information that the commission had received. There was a letter from Rep. McGhee, and a letter from Mr. and Mrs. Spease providing information requested from the commission at the September meeting as to whether or not the area with the slope failure was cleared of trees prior to construction. The letter stated it did not have trees there and they provided a picture taken prior to the work being done.

Mr. Redden reminded the commission that at the last meeting they voted to table the issue until they could receive legal advice. The commission was informed that Tim Duggan was assigned the responsibilities of the AGO representative for the commission.

Elizabeth Brown stated that Steve Coller was present from Representative McGhee's office and Heidi Osner was present from Senator Stouffer's office. Tim Duggan stated the question he looked into was whether or not there was liability on the part of the commission to the landowner in view of the situation that developed on his property. He stated it was his legal opinion that there was no such liability, but it is not to say that they could not offer some assistance in the form of the waiver of the maintenance agreement which the landowner would otherwise have to comply with. This is a ten-year obligation to maintain the structure. A waiver of that maintenance requirement assures that the commission

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would not seek recourse to recover the cost-share that the commission approved for the practice. Mr. Duggan stated this was the option that he recommended the commission to offer Mr. Spease. In regard to developing a fund for such issues in the future, Mr. Duggan stated he had not looked into that.

Steve Collier stated that Representative McGhee asked him to read a letter to the commission from him. Mr. Collier proceeded to read the letter in support of the Spease's.

Heidi Osner stated that Senator Stouffer asked her to read a letter to the commission from him. Ms. Osner proceeded to read the letter in support of the Spease's.

Elizabeth Brown asked if the Lafayette SWCD was present. Steve Oetting stated he picked up the case file the day before the meeting. According to the entries in the file, there were some controversial comments. The notes did not show the same opinions that the commission had heard. Ms. Brown asked Mr. Oetting if he wanted to point out some. Mr. Oetting went through several dates of the NRCS SIX notes that were relative to the contractor's work that was done on Mr. Spease's structure. Kathryn Braden stated that according to the letter from Rep. McGhee the contractor was hired by the state. Mr. Oetting stated the contractor was not hired by the state. He informed the commission that the contractor lives a few miles from the Spease's. He stated the contractor did do a considerable amount of work for the Lafayette SWCD. Ms. Braden inquired about the statement in the letter about a plan in 30 days. She stated she believed the commission tabled it for legal counsel, and asked if there was someone else who was to have a plan. Mr. Oetting stated the county had not done anything on it, because they do not have anything on their docket that they could do. The reason the request was brought to the commission was because they did not have anything they could correct the problem with. Ms. Brown stated the commission had received their legal advise from the AGO.

Kathryn Braden made a motion to grant a variance on the maintenance agreement and not request the money the commission invested back. Richard Fordyce seconded the motion. When asked by the chair Kathryn Braden, Richard Fordyce, Leon Kreisler, and Elizabeth Brown voted in favor of the motion and the motion carried unanimously.

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I. PUBLIC COMMENTS

1. Bill Millard and Marvin Havener – Monroe SWCD - Local Cost-Share Program

Bill Millard stated that he had been designated by Marvin Havener to help him on the project. He stated he had farmed with Marvin, sold him land, and have been together for about 30 years. He signs papers, has legal authority to make decisions on Marvin's land on his behalf, and Marvin can do the same for Mr. Millard. Mr. Millard stated that he wanted to get the commission's attention on a problem that they had been faced with since the year 2003. It was on a large waterway that had been built in 1989. We built numerous waterways during that year. They all had to be replaced, they were put on top of the ground. We tried to do maintenance on them because they were on top of the ground but they had gullies on both sides of the waterway. Finally we started to redo them and we did the lower part of the waterway that was about 4,600 feet long. In 2003 we proposed to do 3,400 feet on the upper part of the large waterway. It was approved, but the big problem was that Mr. Havener only had \$2,400 left for the year 2003. The waterway was going to cost approximately \$14,000. His contribution was going to be about \$11,500 to get the state benefit of \$2,400. At that time we suggested building the upper half. It was 400 feet that could have been financed through CRP waterway. It met that criteria. Then put the \$2,400 worth of state money and Mr. Havener will spend \$6,000. Then we would have been able to build at least half of that waterway. The objections were in the minutes of the board meeting. They said that Mr. Havener objected to the design of the waterway. That was not true. He never objected to the design, he objected to the way they were going to make him finance it. It was either you build all of it, or you didn't build any of it. We wanted to build the upper half mainly because that year that 280-acre field was in preventive planting, which meant that it was an ideal time to do it because it was laying there. It had been limed and disc, the weeds had been taken care of. We fought that all of 2003. We even came up with an alternative project, which was a three tile outlets in a watershed of about 15 acres. The DNR parks personnel came out and it was not feasible. They would not even get out of their vehicle and put an instrument on it. So in short Mr. Havener lost that \$2,400 that year. Then somewhere along the line we got to where we did not know where to turn. Maybe we should have come to this commission, instead we went to Roger Hansen's department. They explained what was happening. He had Reese Coulter, the area engineer from Palmyra, come out. Mr. Millard stated he did not know if Dick Purcell the state engineer entered into it at that time. What our goal was was to try to find out who was right, the farmer or the DNR technician. The technician's position was that it was not feasible to do any part of it, except all of it. Actually when all of it was done, they were still blending it into an existing 1,400 feet of waterway that was down

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below. They were not going to redo that. Mr. Millard stated that after they got the state's input, a lot of that did not get back to the board. The board never acknowledged anything. Mr. Millard stated they did have a meeting in July that he and Mr. Havener went to and brought the problems out, and the board was going to get back to them the next month. The board never got back with us so we went to the September meeting. At the September meeting Terry Hill spent at least a half hour on the merits of building the upper part in 2003 and doing the lower part in 2004. After discussing it, there was a vote and the vote was 4 to 1 to go ahead and build the upper part one year then build the lower part. That accommodated the money. There was going to be a couple thousand dollars left over by building it over a two-year period because our county has a limit of \$6,500. Mr. Millard stated he even brought up that there was \$3,000 left over, could Mr. Havener use that money on some terraces where they were needed on his farm. He stated there was some discussion, different opinions, they said no that the waterway money couldn't be transferred to terraces. Finally they got that resolved. But all that stuff was not in the minutes, nothing was recorded in the minutes. In the August minutes there was a letter that some of the input from the area engineer was to keep the ground on the outside of the berm perfectly level and seed it with oats or wheat, depending on the time of the year. He stated that mainly because they had such a big watershed and there was water coming off Putnum and Mexico soil. He stated that was the first time he came up against that, he thought they were just adding more stuff for them to try and do. But after studying it you saw the merit of it. That was the only input that came from the state that entered into it. Then after we had the vote to make the upper part, we left that night thinking we had accomplished what we had wanted to. We waited for the technicians to come up with a new design for the upper part. About two or three weeks later they went to Mr. Havener with a letter. It was one of those do or die situations, this is your last alternative, sign it, and do it or forget about it. There was nothing said about doing the upper part. They came up with an idea. What they did was pulled it out of the ground about a foot. They lessened the yardage by 3,500 yards. They took the 400 feet that could have been CRP waterway and they took that off and cut it down to 2,700 feet. So they made the government money of \$6,500 and Mr. Havener's portion they made the money available to fit the design. They didn't give any thought to it. It was contradictory to what should have been done. When everything went along fine they built that, but when it came down to approving it, the contractor found out that there was not enough dirt for the berms. Basically because they pulled it out of the ground a foot. So without the landowner's permission the technicians, Mr. Millard and Mr. Havener did not know whether it was NRCS or which technicians made the decision, no one comes up saying they made the decision. They went out and made a V ditch on the outside of the berm a foot deep with a

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dozer, 2,700 feet up on both sides. With the reasoning that now you got a ditch that has a foot depth and a berm a foot high, so you add the two together and that is how they approved it because it had a berm two feet high. Mother nature, we did that on Friday, he thought that on Saturday night mother nature came in with rain of about an inch and two or three tenths. The only place there was erosion on the whole 1,000-acre farm was where they made them freshly made V ditches. It was like taking a big garden hose and putting it up there, it just swept all that disturbed ground, washed it into another water drainage area, wiped out part of Mr. Havener's road, and if it had been a three inch rain it would have wiped out the county road about 200 feet up from where it was suppose to go. Mr. Millard and Mr. Havener asked two of the board members, one was Mr. Millard's neighbor and one was Mr. Havener's neighbor to come out and look at the damage. They refused to come out and even look at it. The same thing when we had the state engineers come out and look at the problem when they wanted to break it into two waterways the DNR technicians that was telling Mr. Millard and Mr. Havener that it was not feasible they refused to come out. So we don't understand how people can go ahead and refuse to just quit working a project and walk away from that. If it had not been for Roger Hansen's department they came in and redid the waterway put it back down in the ground, filled the ditches. They calibrated that we had lost 2,000 yards of topsoil had washed away. Mr. Millard and Mr. Havener pretty well got that problem done, other than the damages. We sent a letter to the board addressing the damage that we think they are responsible for. Under all the trouble we have had and all the stuff that NRCS has tried to tell them that they are doing wrong, they ignore that completely. They don't even acknowledge it. He asked Mr. Havener if he had the piece of paper, the schedule, he stated they have a worksheet to sign up for projects to get cost-share. He stated that it is all through their literature they say you sign up and its first come first served. All the retaliation for a problem that, for a motive they have for doing this, if people are interested, we will go into that later. He stated it is still continuing. In other words, I signed up for a 2-1/2 acre waterway. I'd been denied over a three to four year period, every time I thought I was doing everything right filing, signing up to all the different schedules and stuff, low and behold they would always run out of money one person ahead of me. So this time I thought I would stay on top of the ball. I had the contractor out there finishing up on about ten acres of CRP waterways that I tried to get into normal state waterways for three and half to four years, but this is the first time I ventured into CRP waterways. I guess you kind of steer away from them because they start out at 50 percent cost-share, but when you understand them they turn out probably better than the 75/25. So I checked when the money was available the 15th or 20th of July. My contractor had been working on these CRP waterways during the wet spring and late winter and he had gotten behind. He had customers that were

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hollering at him, he said he could not start on Mr. Millard's waterway until the first of August. Mr. Millard asked them if at the first of August all the money was going to be gone. They said oh no you got plenty of money you go ahead let Ronnie go ahead and do his contracting and come back the first of August. So about the last of July, Mr. Millard checked and yes they had the paper work done. I could come up and get it on Thursday. Well they called me and said they had got behind and I couldn't get it. Then on Monday they called me and said it was all ready you come up and pick it up, at 8:00. I did not get in the pickup, go up, and get it, but it would not have made any difference. At 10:00 they called me and said there had been a mistake made, said it looked like the money had ran out ahead of him and I would not get any. I asked them to explain it to me. Well they explained that the guy that was suppose to come out to the guy ahead of me missed his appointment and so that was the reason and I was not too polite and said I did not buy that. Then they came up with another excuse. The two DNR technicians were not efficient as NRCS man, so they did not turn theirs in until a week later. So the next day, I went up, and got a printout for an explanation, and I went up and another lady explained to me and gave me the same song and dance as the first one did. After looking the printout over, it tells you a lot of things on it. I said to them when did you people start staying open on Saturday. At this point Mr. Millard referred the commission to the copy of the sign up sheet that he had handed out. He stated that if you looked on the right hand side you would see Bill Millard signed up the 3rd, 26, 05. Well then someone signed up ahead of me who was my neighbor, and then they squeezed in another one in there the 25th. Up until I got started studying this I was not going to get any money. They explained that the two ahead of me if they did not do \$6,500 jobs I might get a little bit. Then when I saw that the 26th was on a Saturday, I said do you really know when I signed up, they said why, I said when did you start working on Saturday. As soon they found out that they had made a mistake that they had signed me up on Saturday, they started pushing papers at me, you sign this, you sign this, and in about 30 minutes I had my \$6,500 and I go home and make the waterway. He stated that if you looked down at the bottom of the sheet, where someone signed up 3/22 a couple, then there is a Dye Farm and Dale Morgan, they signed up the 22nd. Why weren't their names put over here on the unused right hand column. I stated that the only thing I could tell was the two names down there, Dye Farm that's one of the board members, and Morgan that's a father-in-law of Obannon another board member. It looked like he stated, different people had looked at it and interpreted the only way you can interpret that it looked like the money was going to run out so call a board member and tell them they better sign up somewhere. So it was too late to put them in order like they should, so they just put them in down here. So I asked if that was where my money was going. So you can't in the future, when I sign a list like this, I'm

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going to sign myself, and then I am going to have them sign it, initial it, because that is the only way you can protect yourself. You don't know when you sign up whether your going to get money or if you are going to get weeded out. This is not just a one-deal incident. If you want to take the time we have the board member meetings, we got the stuff to substantiate every thing that we say and it looks like somewhere along the line these people who's doing this have to be accountable, but so far we have worked on this, we have went everywhere except the Attorney General, Congressmen. Maybe to get this resolved, we are going to have to get it resolved in front of a judge and a jury. But, they can not continue to go on lying and changing the records, changing the minutes. Mr. Millard and Mr. Havener went to one board member and for an hour he argued with Mr. Millard just three weeks after the board meeting, that they never had a vote or never took a vote. Mr. Millard told him to," keep racking your memory, cause if you can't come up with your memory I'm going to stay here and eat supper with you." Well he came up, "he said you know Bill I think you're right, we did take a vote on it." But it did not show up in the minutes. Then when I went to the manager that takes the minutes, she tried to sell me a bill of goods that me and Marvin Havener, Terry Hill, and Andrea King, that was there, we did not understand they we were voting on to revise the waterway. We weren't voting to build the upper half like you thought. I do not know how to reason or fight against that kind of odds. He stated there is the old saying "you lie to me once, shame on you, but if you lie to me twice shame on me and that is what we are up against." That is what we are up against and there should be some people that have to be held accountable, but as of yet those technicians for DNR act like their untouchable, they're arrogant. Whenever you have a complaint you go to the board. The first thing they do is put you on the offense, they attack you, and your creditability. We have had instances where the Sunshine Law enters into it, and that has not been resolved. The same office, I bought property, eight or nine farms around me in the last 20 years and every time I wanted to find out if there were wetlands on the farm I was going to buy, in one instance I had to get permission from three landowners in three different states and bring that back to the soil conservation office and at that time they were, you thought they were following the privacy act. But when I got ready to sell some land, a prospective buyer could come up there and get all the information he wanted, he didn't have to sign anything. They didn't even know who he was, what his name was, and when we tried to press them for information it took three weeks for the Farm Service Association and soil district, for three weeks they pointed the finger at each other, neither one would talk to me. But finally Mr. Millard and Mr. Havener knew who he had talked too, finally they came out and said it was the soil and water district, but they hadn't said anything was detrimental to Mr. Millard's land. But what the man learned there he walked away from a $\frac{3}{4}$ of a million dollar contract, because

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of all the negative things they told him about the land. Mr. Millard stated he thought that was going beyond the Sunshine Law, but evidently when I was following the rules I had to put a written request in. But when someone came in to look at buying the land they could tell him any thing they wanted to. Mr. Millard stated they had the letter that they had Marvin sign that was drafted, written the 31 of August, but Marvin did not get to see the letter and didn't sign it until the middle of September. In September we went through the charade of having all the discussion about the variance of making the waterway into two half's. He stated that after studying the fact, Dick Purcell came to the conclusion that they had. When you have a waterway that encompasses six acres inside the waterway, the advantage is to break it into a two-year period. Maybe not fit the financial structure, but it will eliminate the gully on these big waterways that have that much internal watershed, you get a gully down at the lower part just from the rain that falls in the five or six acres. So that is something that is important to maybe break it down. Another thing on this letter, everything that farmers sign in the soil district and ASC offices you don't get out of there with it being dated, that's a no no, you don't sign a piece of paper and not date it when it was signed. The letter that they wanted to tie Marvin to as a contract never was dated, no date as to when it was signed. Mr. Millard asked the manager that did the minutes when this was signed. She said she thought it was probably signed right after the September meeting. Mr. Millard stated that him and Mr. Havener were the first ones on the agenda and as soon as it was resolved that they were going to build the upper half, they left. He stated there was goobs of proof of where they lied, doctored the minutes, ignored all the input that Roger Hansen's office put in, they did not even record it in the minutes. There are instances where Mr. Millard had a verbal agreement on how to resolve a problem. It came to the board and they changed the date from the 1st of May back to the 15th and we were out there in February so what they wanted to do was axed because the grass that you transplant is not going to grow in 30 days. Mr. Millard stated that he guessed he was through, but he would like to have some type of advice on what they have to go through to take this problem, if they have to take it to the Attorney General or maybe we can't even go there.

Elizabeth Brown thanked him for coming and presenting his case.

Mr. Millard asked when they would get any feedback on what was going to happen or how long we have to wait before we progress on to another avenue. Ms. Brown answered she presumed the commission would talk to legal advice. She asked if that was satisfactory. Mr. Millard asked what he had to do to talk to the same legal advice through the Attorney General to find out the clarification of what can be said at the Sunshine Law. Ms. Brown stated she was sure the

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commission's representative would take it back and look at action if any action is to be taken. She stated that they have legal advice represented on the commission. Mr. Millard asked if he didn't have to put some input in to what the negative input was such as affidavits from the people that were involved. Ms. Brown stated that she thought he had presented his case very well, she did not know if he would have to do that. Ms. Brown asked Tim Duggan if he had any thing to say to that. Mr. Duggan stated that if he understood Mr. Millard was saying there was some cheating going on and favoritism being shown in the district. Mr. Millard stated that was part of it and part of it was just denying a person from, building a waterway or building tile structures in an area because all they have to do is say that it is not feasible and then come up with some far fetched excuse which is the reason they brought the state in to find out who was right. After they were proved that everything Mr. Millard and Mr. Havener wanted to do as farmers was feasible and good for the soil, they went ahead and did as they pleased anyway. He stated he did not know how to address that. Mr. Havener stated they could go on for three or four hours on this if the commission wanted to, because there were more instances than this. He stated they had documentation on it, even on the project that they are currently working on. Mr. Millard stated they're doing a tile outlet that they said couldn't be done, wouldn't work, it was too big of a watershed to put tile outlets. He stated there were three terraces they all have tile outlets, there is only nine acres in the whole watershed including four acres above the top one. Terry Hill and his technicians went ahead and did it. Mr. Duggan stated that he did not know if his office could give them legal advice. They might find themselves having to hire private counsel if they were looking at bringing some sort of a lawsuit against the district for mismanagement. Mr. Duggan stated Mr. Millard might call the Attorney General's general office number. He stated he would also look into it as well to see if there is anything their office would do that would be of some help but you may have to talk with private counsel. Mr. Millard stated that they had set down with Roger Hansen's office twice, they had talked to Mike Wells twice, and they are pretty well versed on a few of the tricks that they have pulled. Mr. Millard stated that the last one was there was an eight inch tile, ten inch tile, and twelve in tile, but when they turned it over to Paris, after they did all the engineering stuff for them to put together the sheets. They came up with needing two twelve inch tiles and there would have to be twelve inch tile going to the second waterway, second terrace and Terry Hill and his technicians were sharp enough to catch it. What they had done was they had put the tile in the upper end, they put it four and half feet deeper in the ground than the discharge end. Most farmers would not have caught that, and another thing they don't give a cut sheet, they just started now because of this mix up, now as landowners we get a cut sheet, but prior to that they did not. By putting that tile four and half down at the upper end that

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took the slope away so that changed the hydraulics' of the flow of the water so that the water time period to drain off at the second terrace went from 14 hours to 42 hours. The thing that was going to do was going to run the cost of that little watershed to where the tiles would be so expensive, they run about four dollars and something a foot for twelve inch tile. He stated that he had been down this road before with them on a project, they say, rightly so, this here tile cost is prohibited, and could spend the taxpayers money better by putting a waterway in ordinary terraces, at some point you have to agree to them. But when they manufacture that you have to put in two twelve-inch tiles by a trick to deceive you and lower the upper part. Now that is when Mr. Millard even called Dick Purcell to get his spin on it to educate himself to see if it was feasible, and yes that was feasible by doing that it created the use of having two twelve inch tiles, and the board was setting there ready to stop the project because it was cost prohibited. You tell me how the private farmer fights that kind of stuff. Mr. Duggan asked if staff had enough information about the nature of the problems. Sarah Fast answered that they would fill him in on what has been presented today. Ms. Brown stated the commission did not know what comments Mr. Millard and Mr. Havener were going to make, just that they were going to make a comment so the commission was not prepared for any type of action. She thanked them.

J. DATE OF NEXT MEETINGS

The date of the next commission meeting was set for Monday, November 28, 2005, at Tan-Tar-A, and that is the joint meeting with the association. Ms. Brown asked if it would start early. Ms. Fast stated the breakfast would be at 7:00 and the joint meeting would be at 8:00 and then the commission meeting is at 10:00.

Richard Fordyce asked about the suggested November 9th meeting. Ms. Fast stated that was a back up for the present meeting.

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K. ADJOURNMENT

Leon Kreisler moved the meeting be adjourned. Richard Fordyce seconded the motion. Motion approved by consensus at 11:55 am.

Respectfully submitted,

Sarah E. Fast, Director
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman
Missouri Soil & Water Districts Commission

/tm